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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ABANTE ROOTER AND)	Case No. 3:23-cv-3872
PLUMBING, INC., individually and)	
on behalf of all others similarly	)	<u>CLASS ACTION</u>
situated,)	
	)	COMPLAINT FOR VIOLATIONS
Plaintiff,	)	OF:
)	
vs.	)	1. NEGLIGENT VIOLATIONS OF
	)	THE TELEPHONE CONSUMER
	)	PROTECTION ACT [47 U.S.C.
ABSM LLC d/b/a COASTAL DEBT	)	§227 ET SEQ.]
RESOLVE; DOES 1 through 10,	)	2. WILLFUL VIOLATIONS OF THE
inclusive,	)	TELEPHONE CONSUMER
	)	PROTECTION ACT [47 U.S.C.
	)	§227 ET SEQ.]
Defendants.)	
	)	<u>DEMAND FOR JURY TRIAL</u>

Plaintiff, ABANTE ROOTER AND PLUMBING, INC. ("Plaintiff"), individually and all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action individually and on behalf of all others similarly situated seeking damages and any other available legal or equitable

1 remedies resulting from the illegal actions of ABSM LLC (“Defendant”), in
2 negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff’s cellular
3 telephone in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227
4 *et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.

5 **JURISDICTION & VENUE**

6 2. Jurisdiction is proper under 28 U.S.C. § 1331 because this cases arises
7 under a federal statute, namely the Telephone Consumer Protection Act, 47 U.S.C.
8 § 227 *et seq.*

9 3. Venue is proper in the United States District Court for the Northern
10 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)
11 because Defendant does business a substantial portion of the events giving rise to
12 Plaintiff’s claims occurred within this judicial district.

13 **PARTIES**

14 4. Plaintiff, ABANTE ROOTER AND PLUMBING, INC. (“Plaintiff”),
15 is a corporation incorporated in the state of California and with its principal place
16 of business Alameda County, California, and is a “person” as defined by 47 U.S.C.
17 § 153 (10).

18 5. Defendant, ABSM LLC (“Defendant”), is a debt relief company
19 incorporated and with its principal place of business in Florida, and is a “person”
20 as defined by 47 U.S.C. § 153 (10).

21 6. The above-named Defendant, and its subsidiaries and agents, are
22 collectively referred to as “Defendants.” The true names and capacities of the
23 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
24 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
25 names. Each of the Defendants designated herein as a DOE is legally responsible
26 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the
27 Complaint to reflect the true names and capacities of the DOE Defendants when
28 such identities become known.

1 7. Plaintiff is informed and believes that at all relevant times, each and
2 every Defendant was acting as an agent and/or employee of each of the other
3 Defendants and was acting within the course and scope of said agency and/or
4 employment with the full knowledge and consent of each of the other Defendants.
5 Plaintiff is informed and believes that each of the acts and/or omissions complained
6 of herein was made known to, and ratified by, each of the other Defendants.

7 **FACTUAL ALLEGATIONS**

8 8. Beginning on or around April 26, 2023, Defendant contacted Plaintiff
9 on its cellular telephone, number ending in -6147, in an effort to sell or solicit its
10 services.

11 9. Defendant used an “artificial or prerecorded voice”, as described by
12 47 U.S.C. § 227(b)(1)(A)) to place its calls to Plaintiff seeking to sell or solicit its
13 business services. At one or more instance during these calls, Defendant utilized
14 an “artificial or prerecorded voice” as prohibited by 47 U.S.C. § 227(b)(1)(A).

15 10. Defendant’s calls constituted calls that were not for emergency
16 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

17 11. Defendant’s calls were placed to telephone number assigned to a
18 cellular telephone service for which Plaintiff incurs a charge for incoming calls
19 pursuant to 47 U.S.C. § 227(b)(1).

20 12. Plaintiff is not a customer of Defendant’s services and has never
21 provided any personal information, including his cellular telephone number, to
22 Defendant for any purpose whatsoever. Accordingly, Defendant never received
23 Plaintiff’s “prior express consent” to receive calls using an artificial or prerecorded
24 voice on its cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

25 **CLASS ALLEGATIONS**

26 13. Plaintiff brings this action on behalf of itself and all others similarly
27 situated, as a member of the proposed class (hereafter “The Class”) defined as
28 follows:

1
2 All persons within the United States who received any
3 telephone calls from Defendant to said person's cellular
4 telephone made through the use of any artificial or
5 prerecorded voice and such person had not previously
6 consented to receiving such calls within the four years
7 prior to the filing of this Complaint

8 14. Plaintiff represents, and is a member of, The Class, consisting of All
9 persons within the United States who received any telephone calls from Defendant
10 to said person's cellular telephone made through the use of any artificial or
11 prerecorded voice and such person had not previously not provided their cellular
12 telephone number to Defendant within the four years prior to the filing of this
13 Complaint.

14 15. Defendant, its employees and agents are excluded from The Class.
15 Plaintiff does not know the number of members in The Class, but believes the Class
16 members number in the thousands, if not more. Thus, this matter should be
17 certified as a Class Action to assist in the expeditious litigation of the matter.

18 16. Also excluded from The Class is the Court and its staff.

19 17. The Class is so numerous that the individual joinder of all of its
20 members is impractical. While the exact number and identities of The Class
21 members are unknown to Plaintiff at this time and can only be ascertained through
22 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
23 The Class includes thousands of members. Plaintiff alleges that The Class
24 members may be ascertained by the records maintained by Defendant.

25 18. Plaintiff and members of The Class were harmed by the acts of
26 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
27 and Class members via their cellular telephones thereby causing Plaintiff and Class
28 members to incur certain charges or reduced telephone time for which Plaintiff and
Class members had previously paid by having to retrieve or administer messages

1 left by Defendant during those illegal calls, and invading the privacy of said
2 Plaintiff and Class members.

3 19. Common questions of fact and law exist as to all members of The
4 Class which predominate over any questions affecting only individual members of
5 The Class. These common legal and factual questions, which do not vary between
6 Class members, and which may be determined without reference to the individual
7 circumstances of any Class members, include, but are not limited to, the following:

- 8
- 9 a. Whether, within the four years prior to the filing of this Complaint,
10 Defendant made any call (other than a call made for emergency purposes
11 or made with the prior express consent of the called party) to a Class
12 member using any artificial or prerecorded voice to any telephone
13 number assigned to a cellular telephone service;
 - 14 b. Whether Plaintiff and the Class members were damages thereby, and the
15 extent of damages for such violation; and
 - 16 c. Whether Defendant should be enjoined from engaging in such conduct in
17 the future.

18 20. As a person that received numerous calls from Defendant using an
19 artificial or prerecorded voice, without Plaintiff's prior express consent, Plaintiff is
20 asserting claims that are typical of The Class.

21 21. Plaintiff will fairly and adequately protect the interests of the members
22 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
23 class actions.

24 22. A class action is superior to other available methods of fair and
25 efficient adjudication of this controversy, since individual litigation of the claims
26 of all Class members is impracticable. Even if every Class member could afford
27 individual litigation, the court system could not. It would be unduly burdensome
28 to the courts in which individual litigation of numerous issues would proceed.
Individualized litigation would also present the potential for varying, inconsistent,
or contradictory judgments and would magnify the delay and expense to all parties

1 and to the court system resulting from multiple trials of the same complex factual
2 issues. By contrast, the conduct of this action as a class action presents fewer
3 management difficulties, conserves the resources of the parties and of the court
4 system, and protects the rights of each Class member.

5 23. The prosecution of separate actions by individual Class members
6 would create a risk of adjudications with respect to them that would, as a practical
7 matter, be dispositive of the interests of the other Class members not parties to such
8 adjudications or that would substantially impair or impede the ability of such non-
9 party Class members to protect their interests.

10 24. Defendant has acted or refused to act in respects generally applicable
11 to The Class, thereby making appropriate final and injunctive relief with regard to
12 the members of The Class as a whole.

13
14 **FIRST CAUSE OF ACTION**

15 **Negligent Violations of the Telephone Consumer Protection Act**
16 **47 U.S.C. §227 et seq.**

17 25. Plaintiff repeats and incorporates by reference into this cause of
18 action the allegations set forth above at Paragraphs 1-24.

19 26. The foregoing acts and omissions of Defendant constitute numerous
20 and multiple negligent violations of the TCPA, including but not limited to each
21 and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

22 27. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et
23 seq., Plaintiff and the Class Members are entitled an award of \$500.00 in statutory
24 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

25 28. Plaintiff and the Class members are also entitled to and seek
26 injunctive relief prohibiting such conduct in the future.

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SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

29. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-28.

30. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

31. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

32. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's negligent violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*; and
- Any and all other relief that the Court deems just and proper.

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SECOND CAUSE OF ACTION

**Knowing and/or Willful Violations of the Telephone Consumer Protection
Act
47 U.S.C. §227 et seq.**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C); and
- Any and all other relief that the Court deems just and proper.

Respectfully Submitted this 2nd day of August, 2023.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff